

STATE OF INDIANA



INDIANA UTILITY REGULATORY COMMISSION
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FILED

MAY 30 2003

INDIANA UTILITY
REGULATORY COMMISSION

CAUSE NO. 42098

**PETITION OF INDIANA 211 PARTNERSHIP,)
INC. TO BE RECOGNIZED AND ENDORSED)
AS THE PROPER ADMINISTRATOR AND)
SOLE AUTHORIZED USER IN INDIANA)
OF THE 211 DIALING CODE IN ORDER TO)
IMPLEMENT A STATEWIDE, NON-)
COMMERCIAL INFORMATION AND)
REFERRAL SYSTEM PROVIDING ACCESS)
TO HUMAN SERVICE PROVIDERS AND TO)
BE GRANTED CERTAIN OTHER RELIEF)
FURTHERING SUCH PURPOSE)**

You are hereby notified that on this date the Indiana Utility Regulatory Commission ("Commission") has caused the following entry to be made:

A technical conference was convened in this Cause on August 29, 2002, after which a number of telecommunications providers submitted cost information to the Indiana 211 Partnership, Inc. (the "211 Partnership") for provisioning and enabling 2-1-1 three digit dialing services. (Hereinafter, the term "211 services" will refer to the services supplied by the LECs to the 211 Partnership to enable the 211 Partnership to set up the "211 system.") On March 20, 2003 the 211 Partnership filed with the Commission its "Submission of Report in Compliance with the February 20, 2002 Interim Order," which included a summary of the cost information supplied by some LECs for 211 services.

On April 3, 2003, the Office of Utility Consumer Counselor ("OUCC") filed with the Commission its "Motion for Procedural Schedule, Assignment of Burden of Proof, and Submission of Cost Support Evidence by SBC and Verizon," which appears in the following words and figures, to-wit:

[H.I.]

In its Motion, the OUCC notes that, according to the 211 Partnership's Report, Verizon and SBC have failed to provide cost support information necessary for the 211 Partnership to formulate accurate cost projections. The OUCC notes that I.C. 8-1-2-4 requires that any charge made by any public utility be reasonable and just. The OUCC then argues that Verizon and SBC bear the burden of proving the reasonableness of their proposed rates through the submission of cost studies and other evidence. Wherefore the OUCC moves that the Commission require Verizon and SBC to provide cost studies, that they demonstrate the appropriateness of their respective proposed rates, and that a procedural schedule be set for the review of such rates.

On April 23, 2003, SBC filed with the Commission its “Response in Opposition to the Office of Utility Consumer Counselor’s Motion . . .,” which appears in the following words and figures, to-wit:

[H.I.]

In its Response, SBC argues that the OUCC’s Motion is premature and should be denied. SBC states that, “upon successful negotiation of rates, terms and conditions, it will submit a contract(s) and cost information supporting the contract(s) to the Commission for review pursuant to applicable Commission requirements.” SBC states it has had an ongoing exchange of information with the 211 Partnership and that the length of the negotiations is not out of the ordinary for a complex, unique customer situation. SBC further argues that the Commission should examine the long-term viability of the 211 Partnership. SBC submits that a process should not be undertaken to examine rates for 211 service in Indiana until there is more certainty about the continued existence of the 211 Partnership and its viability as the sole provider and administrator of the 211 system in Indiana.

On April 30, 2003, Verizon filed with the Commission its “Response to OUCC Motion,” which appears in the following words and figures, to-wit:

[H.I.]

In its Response, Verizon states that it continues to negotiate with the 211 Partnership and will file appropriate documentation when a contract is signed. Therefore, according to Verizon, the relief requested by OUCC in its Motion is premature and unnecessary.

On May 5, 2003, the OUCC filed with the Commission its “Reply to SBC Indiana’s Response in Opposition,” which appears in the following words and figures, to-wit:

[H.I.]

In its Reply, the OUCC argued that SBC’s request for examination of the viability of the 211 Partnership is untimely and irrelevant. Second, the OUCC states that the IURC’s February 20, 2002 Order in this Cause already requires SBC to produce specific cost information. Given the passage of time since that Order, the OUCC argues it is inappropriate for SBC to now argue it should be permitted to withhold such cost evidence from the IURC. Third, the OUCC asks why SBC is unable to justify its cost of service until after its rates have been finalized. Fourth, the OUCC characterizes SBC’s argument that the 211 Partnership has failed to obtain long-term funding as circular because SBC’s and Verizon’s lack of cooperation has created financial difficulties for the 211 Partnership.

Also on May 5, 2003, the 211 Partnership filed with the Commission its “Reply of Indiana 211 Partnership to SBC’s Opposition to Disclosure of Information and Other Relief Requested by OUCC,” which appears in the following words and figures, to-wit:

[H.I.]

In its Reply, the 211 Partnership states “absent some voluntary sharing or a significant reduction in the proposed rates and charges, the Partnership believes it would be worthwhile for the Commission to grant the OUCC’s Motion and require SBC to disclose the cost information.” In support of its position, the 211 Partnership states that granting the OUCC’s Motion can expedite the Partnership’s receipt of important information. In addition, the Partnership reiterates its statement from the Report that the failure of some local exchange carriers, including SBC, to respond to the Partnership’s request and provide timely and reliable pricing and other information has restricted the Partnership’s ability to attract the funding it considers necessary.

Upon reviewing the parties’ filings and the 211 Partnership’s Report, it appears to the presiding officers that progress toward implementing a statewide 211 system, while significant, is not what it could be. It also appears that the 211 Partnership’s negotiations with SBC, and with Verizon, may be slowing down the implementation of the 211 system. While SBC states that the length of the negotiations is not out of the ordinary, the Commission is aware that in several other states SBC has already entered into firm agreements with 211 providers. To expedite the implementation of the statewide 211 system, the presiding officers now determine that a hearing should be convened on **June 18, 2003 at 10:00 a.m.** in Room TC-10 of the Indiana Government Center-South. The parties should come prepared to discuss a number of matters: the 211 Partnership should be prepared to discuss its roll out plan for the Indiana 211 system, and the LECs should come prepared to discuss a timetable for providing price support for their respective 211 services. In addition, the presiding officers will discuss a procedure for the filing and approving of 211 services, and will invite comments (and later, perhaps, briefs) on whether such services should be treated as tariff items, CSOs or some other category.

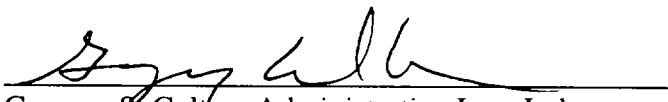
The pleadings filed in April and May contain two arguments that the presiding officers would like to address now. One argument raised by SBC is that the long-term viability of the 211 Partnership should be ascertained before requiring SBC to provide supporting cost information. The presiding officers see little merit to this argument for a number of reasons: (1) With the exception of SBC, it appears from the Report that *none* of the LECs intend to assess an ongoing monthly charge. Thus it appears that from the perspective of every LEC except SBC the long-term viability of the 211 Partnership is irrelevant, since the majority (if not all) of the cost of providing 211 services will be recovered when service is initiated. In the absence of SBC price support justifying its unique need for a monthly charge, it appears to the presiding officers that the long-term viability of the 211 Partnership is irrelevant. (2) Even if the 211 Partnership were to become insolvent, a successor organization or organizations would almost certainly emerge to carry on the 211 effort, thus requiring the same information that the 211 Partnership now requests. (3) It appears that the 211 Partnership’s difficulties in securing financing may in part be due to delays in receiving cost information from SBC and Verizon in support of their proposed prices. If this is true, it is disingenuous for those LECs who withhold such cost information to argue about the lack of permanent funding. (4) The long-term viability of the 211 Partnership is properly the concern of the Commission, not SBC. Upon reviewing the 211 Partnership’s Report, the presiding officers see indications that the 211 Partnership has made substantial progress toward implementing its 211 system. In addition, to the extent there are impediments to the 211 Partnership’s progress that are attributable to LECs, it would seem unfair to judge the 211 Partnership’s efforts until after those impediments have been removed.

A second argument raised by both SBC and Verizon is that a request for cost support is premature at this time; both indicate that after an agreement has been reached they will file cost support with the Commission for its review. Both parties seem to view the provision of 211 service as a CSO, which typically provides for Commission review of a contract *after* it has been signed. Even if we assume that 211 service can be characterized as a CSO, the traditional *ex post facto* review is not appropriate in the case at hand. Unlike a business customer who can seek services from a competitive LEC or pass along the cost of telephone services to its customers, the 211 system *must* employ the services of the incumbent LEC and cannot pass along its costs directly to its customers. The 211 system in many ways is comparable to 911 service, but does not have the authority to assess fees on the general public. Thus, price is very important. Given the public interest in having a statewide, affordable referral system providing access to human services, it is important that the prices charged by LECs for 211 services be reasonable. Therefore, pursuant to the Commission's authority set forth in I.C. 8-1-2-52, the presiding officers will require all LECs to submit their prices for 211 services, and appropriate cost support, *before* a contract has been signed. A timetable for submitting this information will be discussed at the June 18th hearing.

IT IS SO ORDERED.

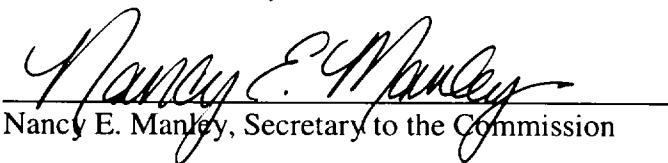


Larry S. Landis, Commissioner



Gregory B. Colton, Administrative Law Judge

Date: 5/30/03



Nancy E. Manley, Secretary to the Commission